



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 05 2014

REPLY TO THE ATTENTION OF:

E-19J

Scott Pruitt
U.S. Fish and Wildlife Service
Bloomington Field Office
620 S. Walker St.
Bloomington, Indiana 47403

RE: Final Environmental Impact Statement, Habitat Conservation Plan, Implementing Agreement and Programmatic Agreement: Fowler Ridge Wind Farm, Benton County, Indiana – CEQ # 20140004 (Docket Number FWS-R3-ES-2013-0032)

Dear Mr. Pruitt:

The U.S. Environmental Protection Agency has received and reviewed the U.S. Fish and Wildlife Service's (USFWS) "Final Environmental Impact Statement (EIS) for Proposed Habitat Conservation Plan and Incidental Take Permit", dated December 2013, as well as the Fowler Ridge Wind Farm Indiana Bat Habitat Conservation Plan (HCP) prepared by the applicant, Fowler Ridge Wind Farm (FRWF)¹. FRWF has applied to USFWS for an incidental take permit (ITP) under the Endangered Species Act of 1973 (ESA), as amended, for proposed impacts to the Federally-endangered Indiana bat (*Myotis sodalis*) associated with operation of the Fowler Ridge Wind Farm. The applicant has developed the HCP to ensure that impacts to the Federally-listed Indiana bat are adequately minimized and mitigated in accordance with the requirements of Section 10 of the ESA. This letter provides EPA's comments on the Final EIS, pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

The Draft EIS and Final EIS were prepared to evaluate the impacts of construction of a proposed Phase IV to the existing Fowler Ridge Wind Farm along with the operation and decommissioning of the four phases of the Fowler Ridge Wind Farm. USFWS's proposed action is approval of the HCP and issuance of a 21-year ITP to FRWF for the expected take of 184 Indiana bats. The construction of Phase IV would involve construction of up to an additional 94 turbines along with associated access roads and infrastructure, with generation of up to 150 megawatts (MW) of electricity. The first three phases of the Fowler Ridge Wind Farm consist of

¹ The applicant is officially Fowler Ridge Wind Farm LLC; Fowler Ridge II Wind Farm LLC; Fowler Ridge III Wind Farm LLC; and Fowler Ridge IV Wind Farm LLC., referred to hereafter as FRWF.

355 wind turbines with a total energy capacity of 600 MW. Total build-out for all four phases will be up to 449 turbines with a total energy capacity of 750 MW.

EPA provided comments on the Draft EIS to USFWS on June 4, 2013. EPA appreciates USFWS's diligence in responding to public comments raised during the Draft EIS comment period and to the level of detail provided in USFWS's responses to EPA's comments. Specifically, all of the comments raised by EPA in our Draft EIS comment letter had a thorough response provided. EPA understands that specific design details and construction plans, including final siting locations for the turbines, are still forthcoming. We recommend that USFWS and the applicant address EPA's remaining concerns issues as project design and refinement progresses. EPA's comments on the Final EIS are as follows:

MEASURES TO REDUCE MORTALITY DURING OPERATION

- EPA reiterates our previous recommendation that the applicant commit to installing motion-detection lights in turbine nacelles that will shut off automatically after a pre-determined amount of time when no human movement is detected. While USFWS states that the applicant has committed to turning off lights in turbine nacelles when not needed for safety or compliance, it is the inadvertent mistake of human error [leaving lights on] that has led to episode events of high bird mortality. Installation of motion-detector lights ensures less likelihood of human error, and as such, is more protective of migratory birds.

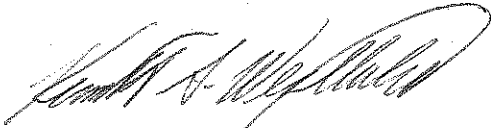
WETLAND AND STREAM IMPACTS

- The Final EIS is not clear on whether or not a formal wetland/Waters of the U.S. delineation has been undertaken. The Final EIS commits to complete avoidance of all wetland impacts. The Final EIS also commits to no permanent stream crossings or permanent fill to be placed below the Ordinary High Water Mark of any stream, and the use of directional bore installation for collector lines to be installed across any flowing stream. Open trench installation of collector line crossings will only be undertaken in dry stream beds. While EPA commends these commitments, EPA reminds the applicant that temporary stream crossings are mentioned in the Draft EIS, and that permitting for such crossings should be coordinated under Sections 404/401 of the Clean Water Act with both the U.S. Army Corps of Engineers (USACE) and the Indiana Department of Environmental Management (IDEM).

Additionally, EPA appreciates the Final EIS discussion that there is some uncertainty associated with eagle use of the project area, and that risk to eagles is difficult to predict for the Fowler Ridge Wind Farm and may be underestimated. EPA values the level of detail described for the eagle management plan and management strategy developed in the Bird and Bat Conservation Strategy (BBCS) document. Finally, EPA appreciates the risk assessments and adaptive management triggers evaluated for birds, eagles, and whooping cranes that were provided in the BBCS document.

Thank you for the opportunity to review and comment on this Final EIS. Please send a signed copy of the Record of Decision to EPA once it is available. Please also submit a final signed copy of any Section 106 Memorandum of Agreement to this office. If you have any questions about this letter, please contact Ms. Liz Pelloso, PWS, of my staff at 312-886-7425, or via email at pelloso.elizabeth@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Enforcement and Compliance Assurance

cc: Forest Clark, USFWS-Bloomington
Chris Mensing, USFWS-East Lansing
Aaron Damrill, USACE- Detroit District, Michiana Branch
Matt Buffington, IDNR-Division of Fish and Wildlife
Markita Shepherdson, IDNR-Division of Water
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